

REMARKS

Applicants respectfully request reconsideration and withdrawal of the outstanding Office Action rejections in view of the foregoing amendments and following remarks.

Claims 12, 14, 18, 27 and 28 have been amended to place the claims in better condition for examination. New claim 33 has been added. Support for new claim 33 can be found throughout the present specification. No new matter has been added.

Applicants respectfully request withdrawal of the outstanding 35 U.S.C. § 112, second paragraph, rejection of claims 12-32 in view of the foregoing amendments. Claims 12 and 14 have been amended to place the claims in the alternative. Claim 18 has been amended to reflect dependence on claim 12. Claims 27 and 28 have been amended to include definitions for groups represented by R^2 and R^5-R^9 . Accordingly, present claims 12-32 are now believed to satisfy the requirements of 35 U.S.C. § 112, second paragraph.

Applicants respectfully request withdrawal of the outstanding 35 U.S.C. § 103(a) rejection of claims 12-32 in view of the following remarks. Applicants submit that the present claims are not rendered obvious by the disclosure of Giencke (U.S. Patent No. 5,250,530). The present invention relates to 2-(2-pyridyl)-5-phenyl-6-aminopyrimidines of the formula I, wherein the 5-phenyl substituent necessarily contains an ortho-substituent (R^5 is halogen, alkyl or haloalkyl). Furthermore, the pyrimidines of the present invention contain a substituent other than hydrogen in the 4-position ($R^2 \neq H$). In contrast to the pyrimidines of the present invention, the only pyrimidines in Giencke that are 5-phenyl substituted, compounds No. 102.1 and 102.2 (see columns 29 and 30 of Geincke), do not

contain a substituted, or even ortho-substituted, phenyl in the 5-position or a substituent other than hydrogen in the 4-position.

Applicants submit that Giencke does not teach the equivalency of unsubstituted phenyl and substituted phenyl. Giencke only generally mentions that substitution of the 5-phenyl ring is possible. Giencke fails to disclose specific compounds that are substituted at the 5-phenyl ring position. Thus, phenyl and substituted phenyl cannot be regarded as obvious. There is no mention whatsoever in Giencke as to the importance of a substituent in the 5-position or ortho position of the phenyl ring

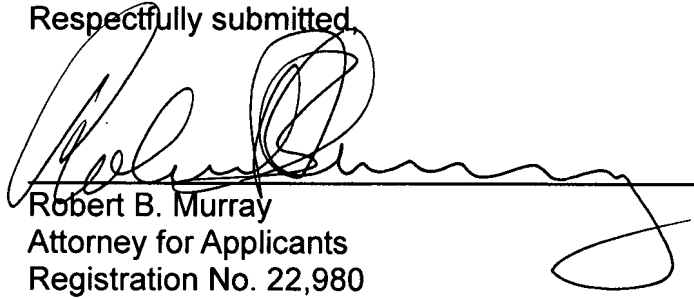
Applicants submit that the Examiner has stated that the substituted phenyl ring is the only difference between the present invention and the compounds 102.1 and 102.2 of Giencke. However, the compounds of the present invention are also characterized as having a substituent in 4-position of the pyrimidine ring, whereas the compounds 102.1 and 102.2 of Giencke contain a hydrogen at this position. Furthermore, there is no mention in Giencke that the compounds taught therein have similar activity against phytopathogenic fungi.

Applicants hereby submit a Rule 1.132 declaration showing unexpected results for compounds of the present invention. This declaration demonstrates that compounds of the present invention show improved, and unexpected, fungus control when compared to compounds of Giencke.

Applicants respectfully request reconsideration and withdrawal of the outstanding Office Action rejections in view of the foregoing amendments and remarks. Early and favorable action is awaited.

Respectfully submitted,

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